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Director

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AO-88-09

Robert A. Durand
State Representative
Room 478
State House
Boston, MA 02133

Dear Representative Durand:

This letter is in response to your recent request for an advisory opinion.

You have stated that you wish to purchase a computer with funds from your political committee. The computer will be housed primarily in the State House and will be used to maintain records of constituency services. You have stated that if the computer is used for campaign-related purposes, it will be moved to your committee headquarters.

M.G.L. c.55, section 6, states in pertinent part, that "A political committee, duly organized, may receive, pay and expend money for the enhancement of the political future of the candidate..for which the committee was organized so long as such expenditure is not primarily for the candidate's or other person's personal use." The use of the computer system as described by you is consistent with the requirement that expenditures enhance the political future of the candidate. However, because a political committee is expending funds to acquire the use of the computer, its use must be restricted to political purposes.

The campaign finance law clearly regulates the use of public facilities, and public employees, for campaign finance purposes. In Anderson v City of Boston, Mass., 380 N.E. 2d 628 (1978), the Supreme Judicial Court stated that the provisions of M.G.L. c.55 "demonstrates a general legislative intent to keep political fundraising out of the hands of non-elective public employees and city and town halls." While this case dealt specifically with a municipality, it is clear that this description of legislative intent applies to state and county buildings as well as state and county employees. Section 13 of M.G.L. c.55 provides that,

"No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever..."

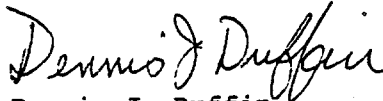
Section 14 states that "No persons shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen..."

In my opinion, the campaign finance law would not prohibit a computer used solely for maintaining a record of constituency from being brought into the legislator's office. This assumes that it is understood that a computer may only have been purchased with political committee funds if the purpose of maintaining the records described above is for their subsequent use in one's political campaign. At such time that this computer is to be used for any fundraising purpose, it must be removed from any public building, including the State House. Furthermore, no public employees, other than an elected official, may operate the computer for any fundraising purposes in any location.

Any item or any thing of value which is acquired with funds of a political committee must remain the property of that committee. Any such property may in no way be used "primarily for the candidate's or any other person's personal use," as stated in Section 6. Furthermore, at such time that the committee is dissolved, this item must be disposed of in accordance with the provisions for dissolution contained in M.G.L. c.55.

This opinion has been rendered solely on the basis of representations made by you, and no independent investigation of any activities contained herein has been made. If you have any further questions, please do not hesitate to contact me.

Very truly yours,


Dennis J. Duffin
Director

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